

To: Dakin Pool Participants  
Fr: Edward A. Barrett  
Su: Summary August 11th Meeting

Members Present:

Friends: Bill Sullivan, Mike Robinson  
City: Ed Barrett, Frank Comeau, Deb Cyr  
Others: Councilor Annie Allen, Jim Ring, Pat Tabor

The Dakin Pool Executive Committee met on Thursday, August 11, 2005 at 5:00 p.m. in the City Council Chambers to continue to work on the Scope of Work for the Dakin Pool Improvement Project.

At its prior meeting, the Committee determined that the following information was needed in order to develop alternatives:

1. Minimum requirements that must be met by a new bathhouse structure to provide a basis for establishing the size and footprint of the structure.
2. Subsurface investigation of the proposed bathhouse location to determine soils and bearing capacity as the basis for foundation design.
3. The feasibility of locating a separate equipment building near or within the current footprint of the existing bathhouse given the road right of way issue.
4. Preliminary cost estimates for the equipment building and plumbing relocation.
5. Preliminary cost estimates for a new bathhouse that would meet minimum requirements and that would have a minimum life span of at least 20 years.
6. Identification of bathhouse enhancements beyond the minimum that would add amenities or value to the structure along with preliminary cost estimates for them.

In addition, the Committee reviewed a report prepared by Dan Wellington on existing conditions at the pool and expressed interest in investigating the following:

1. Estimated costs to repair/replace the pool deck to deal with heaving of the existing concrete slabs in several areas.
2. Replacing/Relocating the fencing around the pool to accommodate the proposed new bathhouse/equipment building and extending the area within the fence to encompass a portion of the grassy area located to the north of the pool.

City Engineer Jim Ring presented the results of the investigations conducted since the last meeting. A copy of his report is attached.

Design Criteria for New Poolhouse

In summary, two alternative layouts for a new bathhouse were presented. Option A is a 720 square foot structure with an estimated cost of \$86,200. Option B is a 1,008 foot structure with an estimated cost of \$118,380. The primary difference between the two options is that Option B allows for a breezeway entry into the pool through the building



and provides slightly more staff space. The consensus of the Committee was that Option B was preferred and should become the basis for future planning.

#### Soil Bearing Capacity

Given the nature of the building under consideration, Jim Ring indicated that he felt the existing soils would be sufficient to handle the weight. He has included an allowance in the cost estimates for removing and replacing unsuitable soils.

#### Equipment Building

Locating a separate equipment building near the current bathhouse location is feasible and cost effective. The location would be just outside of the existing street right-of-way and close to the area where all of the various plumbing systems that service the pool are located. The estimated cost for this building is \$13,000, including a 10' by 14' structure, a new structural slab, and utility and plumbing connections.

#### Pool Deck

While requiring some work, the deck is in fair condition. Reconstructing and/or grinding displaced areas is estimated to cost \$1,500. The City Engineer also recommends that the existing deck be sealed at an estimated cost of \$1,500. The Friends will work with Frank Comeau to determine whether all or a portion of this work can be funded/done through the grant the Friends have received from KaBoom/Home Depot.

#### Fencing

Relocating the bathhouse will require the installation of 200' of fencing at an estimated cost of \$4,000. Expansion of the area within the fence to include a portion of the grass area north of the pool will require another 200' of fencing at \$4,000. In addition, this area should be regraded, loamed, and seeded at an estimated cost of \$5,000.

#### Summary Cost Estimate

New Bathhouse (Option B)	\$118,380
New Mechanical Building	13,000
New Paved Entrance Walk	1,000
Demolition of Existing Structure	4,000
Replacement Fencing (Bathhouse)	<u>4,000</u>
Subtotal	\$140,380
Seal and Repair Pool Deck	3,000
Additional Fencing (Grassy Area)	4,000
Grade/Loam/Seed Grassy Area	<u>5,000</u>
Subtotal	9,000
TOTAL	\$152,380



the definition of the scope of work for the project.

Fundraising: Scope of work has been defined, the next task is to develop a fundraising plan and strategy. The Committee will look largely to the Friends of Dakin Pool for this task since they are in a position to actively solicit funds and support. The Committee did, however, discuss general strategies. In particular, there was considerable discussion regarding the potential for in-kind donations of materials and labor for the project, supplemented by the potential for cash contributions.

In order to pursue in-kind contributions, a bill outlining the materials required for the project is necessary. Once available, businesses can be approached to contribute items such as wood, plumbing supplies, and electrical supplies. Similarly, a breakdown of the nature of the construction work needed will be helpful in seeking out volunteer labor. It might be possible, for example, to find a company that would be willing to build the slab for the poolhouse and perhaps another company that would donate the concrete.

To do this, the next necessary step is to develop a more detailed design for the project. Pat Tabor agreed to contact an individual who might be willing to either donate this service or do it at a significantly reduced cost.

There was also considerable discussion of volunteer labor from local schools/training institutes such as Eastern Maine Community College, the Regional Vocational/Technical School, and Job Corps. Job Corps, for example, might be willing to take on construction of the proposed mechanical building. The Friends will take the lead in contacting these institutions soon to see if this is a possibility and, if so, to make sure that the project is on their potential list of projects early.

#### City In-Kind

The City will review the accepted scope of work to determine what elements of it might be suitable for the City to perform through in-kind work. Frank Comeau will coordinate with Jim Ring and Dana Wardwell, the City's Public Works Director.

#### KaBoom Grant

The Friends have been notified that they have received a \$2,000 grant from Home Depot's KaBoom program. This is in the form of a purchasing card that will allow for buying \$2,000 in materials from Home Depot. In addition, Home Depot employees volunteer to do the actual work required to use these materials. This project must be announced and performed in December. Bill Sullivan will coordinate this with Frank Comeau. The possibility of using this project to address the pool deck was discussed.



## Pool Attendance Report

Frank Comeau will prepare and present the Dakin Pool utilization report to the Committee at its next meeting.

## Presentation of Scope of Work to Government Operations Committee

The approved Scope of Work will be shared with the Government Operations Committee at its next meeting scheduled for Tuesday, August 23, 2005 at 5:00 p.m. in the City Council Chambers.

## SUMMARY OF ASSIGNMENTS

1. Building Design – Pat Tabor will contact an individual to seek donated or reduced fee services.
2. KaBoom – Bill Sullivan and Frank Comeau will coordinate the announcement, the event, and explore the actual project to be undertaken, possibly sealing and repairing the pool deck.
3. City In-Kind – Frank Comeau will review the Scope of Work with Jim Ring and Dana Wardwell to identify elements of the project within the capabilities of City in-kind work.
4. Volunteer Labor – The Friends will contact EMCC, the Voc/Tech High School, and Job Corps.
5. Fund Raising Plan – The Friends will begin to work on this
6. Pool Utilization Report – Frank Comeau for next meeting
7. Scope of Work Presentation – Ed Barrett will place on Government Operations Agenda for 8-23-05.

## Next Meeting

The Committee will meet again on Thursday, September 8, 2005 at 5:00 p.m. in the City Council Chamber of Bangor City Hall.



## MEMORANDUM

TO: Dakin Pool Committee  
FROM: James D. Ring, City Engineer, Director-IDS  
SUBJECT: Potential Facility Improvement Costs  
DATE: August 11, 2005

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Since the Committee's July 28<sup>th</sup> onsite meeting, City Staff has been working with Carpenter Associates to determine minimum requirements for upgrading the existing pool house and other improvements. The following summarizes these requirements and outlines preliminary cost estimates:

### POOL HOUSE REPLACEMENT

The Committee expressed interest in replacing the existing structure and relocating it to the southerly side of the pool. We have determined that a new pool house would need to include separate men's and women's bathroom/changing areas plus a staff area for first aid, lifeguards, and operations. Minimum requirements are 1 water closet, 1 urinal, and 1 lavatory, and shower in the men's area plus 2 lavatories, 2 water closets, and a shower in the women's area. Obviously, these need to provide ADA accessibility.

Attached are two preliminary layouts that would meet these minimum requirements: the first (A) would place the entry gate outside the building and involves a 20' x 36' pool house. The second layout (B) provides access through a 28' x 36' building. A separate mechanical building for pool pumps, filters, etc. would be required as well as additional site work, both of which are discussed below.

#### Option A

- |   |                    |
|---|--------------------|
| • 20' x 36' wood frame construction<br>720 S.F. @ \$110.00* | \$ 79,200.00       |
| • Utility connections (sewer, water, elec.)                 | \$ 4,000.00        |
| • Remove and replace unsuitable soils<br>(if necessary)     | <u>\$ 3,000.00</u> |
| Subtotal:   | \$ 86,200.00       |

#### Option B

- |  |                    |
|--|--------------------|
| • 28' x 36' wood frame construction<br>1008 S.F. @ \$110.00* | \$110,880.00       |
| • Utility connections (sewer, water elec.)                   | \$ 4,000.00        |
| • Remove and replace unsuitable soils<br>(if necessary)      | <u>\$ 3,500.00</u> |
| Subtotal:  | \$118,380.00       |



10' X 14' X \$40.00

\$ 5,600.00

- Utility connections (including pool equipment)

Note: Assume relocation of existing pool equipment by P & R Staff

\$ 0.00

Subtotal: \$ 13,000.00

### SITE WORK

- Demolition and disposal of existing structure, including asbestos removal, filling foundation, and surface restoration (possible fire training exercise?) \$ 4,000.00
  - Repair pool deck (construct and/or grind displaced areas) \$ 1,500.00
  - Seal existing concrete deck \$ 1,500.00
  - Install new perimeter fence and gates (2 sides) 200 L.F. x \$20.00 \$ 4,000.00
  - Regrade, loam, and seed expanded 50' wide area on north side of pool 1000 S.Y. x \$500.00 \$ 5,000.00
  - Additional fence 200' x \$20.00 \$ 4,000.00
  - New paved entrance walk \$ 1,000.00
- Subtotal: \$ 21,000.00

\*Estimating note: 2004 Pancoe cost for basic building structure was \$110.00 S.F., low end of current residential building cost is about \$110.00 S.F.

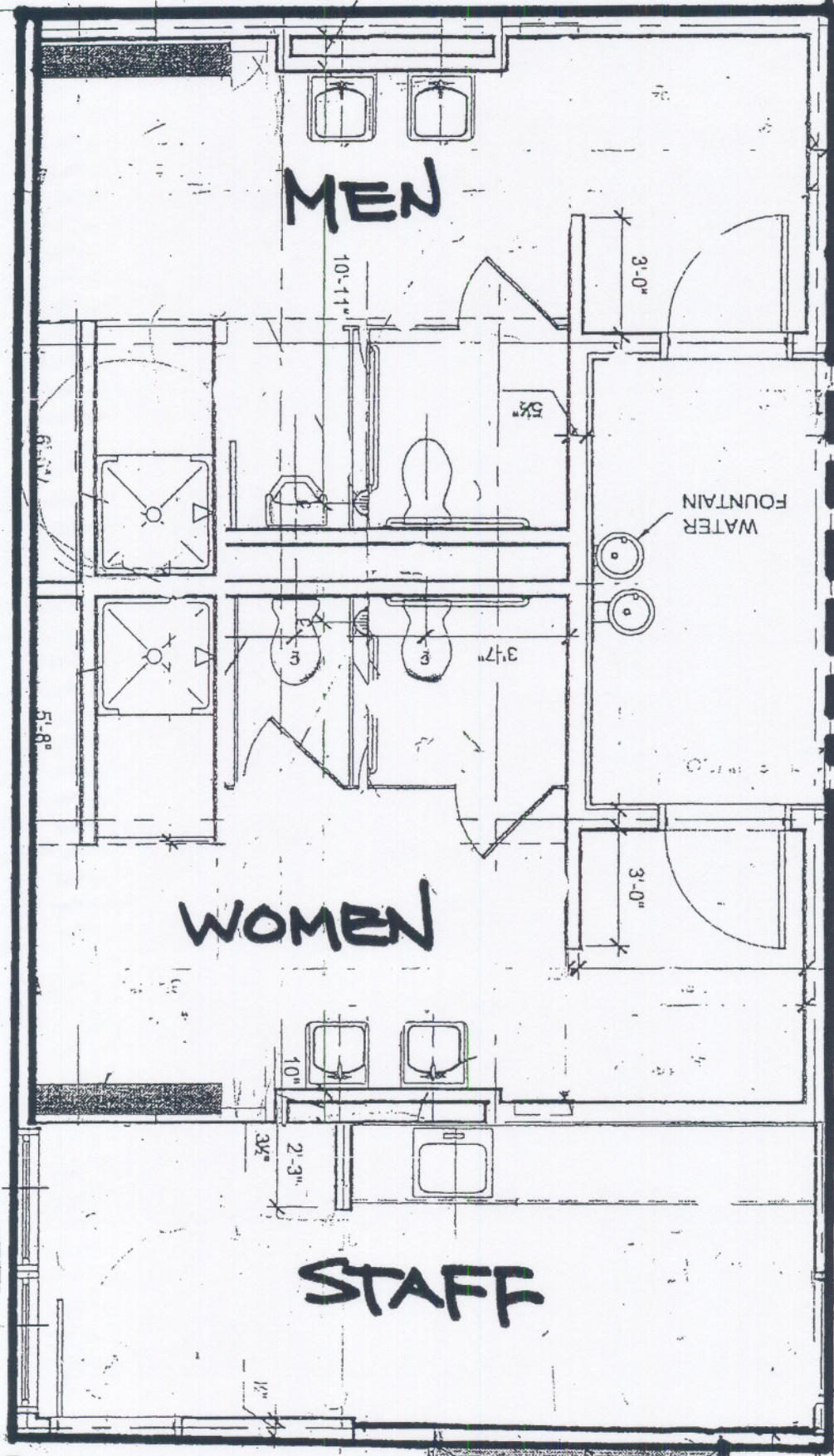
Total, including Poolhouse Option A = \$120,200.00

Total, including Poolhouse Option B = \$152,380.00

It should be noted that these totals are preliminary and do not include design/engineering costs or additional contingency. They also do not reflect savings that may be realized from donated materials or services.



20' W



36' L

POOL SIDE

ENTER  
→

GATE

OUTSIDE SERVICE WINDOW

POOLHOUSE OPTION 'A'



28' W

36' L

ENTER

WOMEN

MEN

WATER  
FOUNTAIN

IFD = 1

007

SERVICE WINDOW

LIFEGUARD

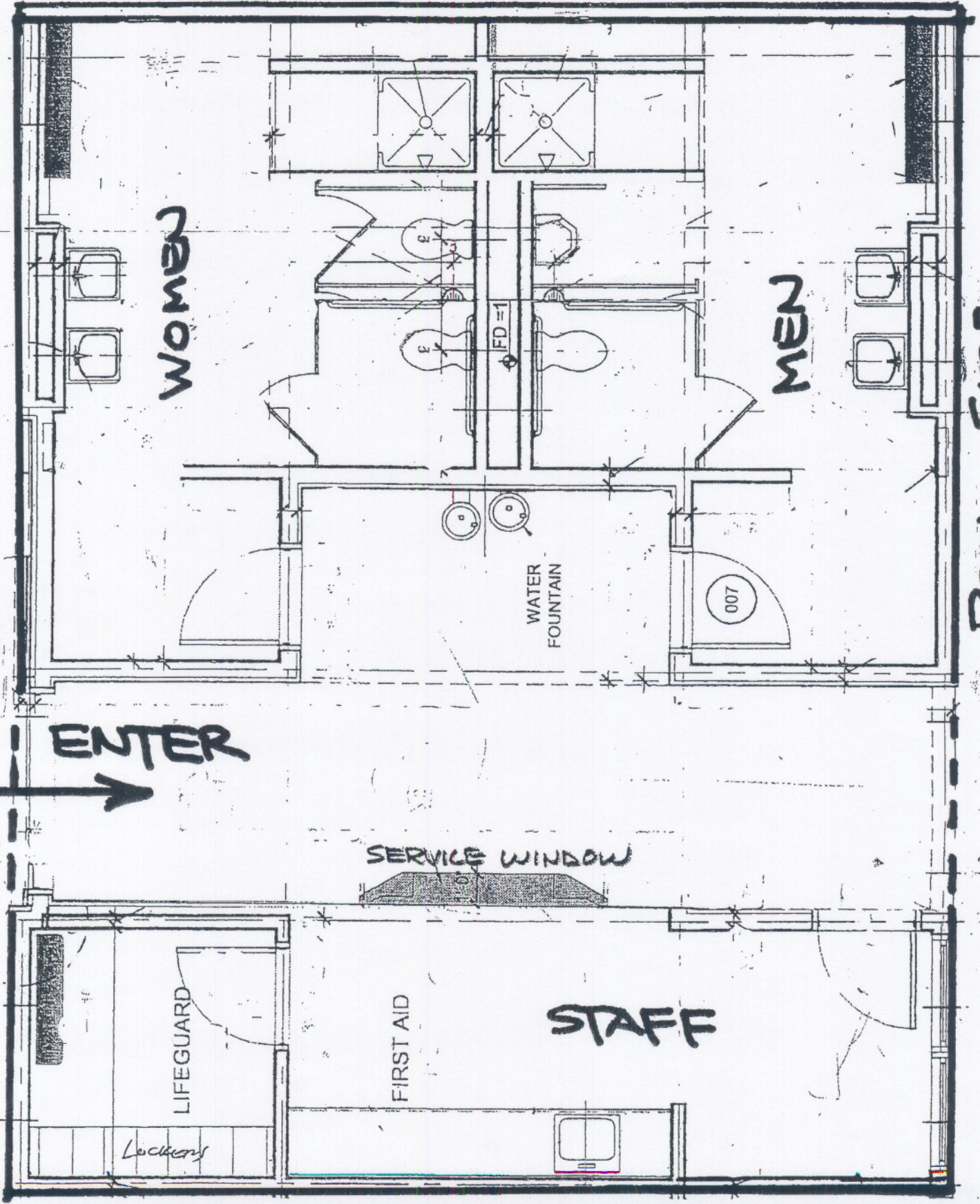
FIRST AID

STAFF

Lockers

POOL SIDE

POOLHOUSE OPTION 'B'





**POLICY**  
**DISTRIBUTION OF WRITTEN MATERIALS IN CITY BUILDINGS**

**1.0**    **PURPOSE**

The City of Bangor owns numerous buildings throughout the City that are necessary to conduct the business of the City, some of which are leased to third parties. While these buildings are publicly owned and may be open to the public, they are not designed or intended to be traditional or limited public forums. The City, as a private owner of property, has the authority to preserve the property under its control for the use to which it is lawfully dedicated. Accordingly, it is the intent of this policy to keep buildings covered by this policy as nonpublic forums in order to ensure that the buildings will be used efficiently and for their intended purposes.

**2.0**    **APPLICABILITY**

This policy is applicable to all buildings owned by the City of Bangor except City Hall (which is covered by a separate policy, see P.8.3), buildings operated by the Bangor School Department, and buildings leased to third parties. Buildings covered by this Policy include, but are not limited to, the following:

Bat Community Connector Buildings

Fire Department Stations

Fleet Maintenance Building

Harbor Masters Building

Health & Welfare Department Buildings, including:

Administration Offices

Dental Clinic

General Assistance Offices

Immunization Clinic

Public Health Nursing Offices

Shelter Care Plus Offices

STD Clinic



Park Woods

WIC Offices

Parks & Recreation Buildings, including the Golf Course

Police Headquarters

Public Works Building

Pickering Square Parking Garage

Waste Water Treatment Plant

### 3.0 GENERAL POLICY

- 3.1 The City shall not allow the distribution or dissemination of any written materials (including, but not limited to, magazines, brochures, newspapers, flyers, pamphlets, posters) by the public.
- 3.2 The City Department responsible for the operation of a building may, but is not required to, distribute or otherwise make available materials that are reasonably related to the Department's purpose. Departments shall be viewpoint neutral in deciding which such materials to provide.

### 4.0 BASS PARK, PARKS AND RECREATION CENTER, & BANGOR INTERNATIONAL AIRPORT

- 4.1 The Bass Park Complex and the Parks and Recreation Center on Main Street are subject to § 3, except when these facilities, or a portion thereof, are leased to a third party, during which time the leasee may distribute materials within the leased area.
- 4.2 The Bangor International Airport is subject to § 3 except for those portions of the facility that are leased to third parties. Such leased areas are not subject to this policy.

### 5.0 OTHER

- 5.1 Commercial advertising in City Buildings is governed by the City's Advertising Policy, which policy shall not be affected or superceded by this policy.
- 5.2 Posters or publications informing the public of upcoming events,



performances, or activities may, in part or in whole, by the City or by the State of Maine or United States Government.

Department Director responsible for the City Building or his or her designee.

- 5.3 The City may remove any materials that have become outdated, due to space limitations, or when required to avoid visual clutter in public or office areas. Such removal is at the sole *but viewpoint-neutral* discretion of the responsible staff person and may be without notice to the organization that has placed the materials concerned.
- 5.4 Publications or other reading material in public waiting areas in City Buildings shall be limited to materials otherwise permitted to be placed or distributed in City Buildings and other publications and materials purchased by the City in the course of its normal operations for City business purposes.

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Edward A. Barrett  
City Manager

Council Reference:  
Effective Date:





# Penobscot Valley Council of Governments


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RECEIVED

AUG 17 2005

CITY MANAGER'S OFFICE

To: Member Communities

From: Dean L. Bennett, Executive Director 

Date: August 18, 2005

RE: General Assembly Nominations  
Executive Committee Nominations  
2006 Officers Ballot

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## General Assembly

On an annual basis, in anticipation of the upcoming new fiscal year, each PVCOG community is asked to appoint two individuals to the organizations General Assembly. In addition, each community is extended the opportunity to nominate an elected official to PVCOG's Executive Committee.

The Executive Committee meets the third Tuesday of every month for lunch in the EMDC Board Room. (Please consider availability for meeting attendance) PVCOG is expanding its role as a regional leader and your community's representation is very important.

Community Name: \_\_\_\_\_

General Assembly:

\_\_\_\_\_ (Elected Official)

\_\_\_\_\_ (Planning Board Member/Town Manager)

Executive Committee:

\_\_\_\_\_ (Elected Official, can be same as above)



## Officers Ballot

Please vote for one candidate in each position or provide write-in of your choice:

		Yes	No
President:	Clint Deschene Town of Hermon	_____	_____

Write in: \_\_\_\_\_

Vice President:	Amie Allen City of Bangor	_____	_____
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Write in: \_\_\_\_\_

		Yes	No
Treasurer/ Secretary:	Manley DeBeck City of Brewer	_____	_____

Write in: \_\_\_\_\_



## Memorandum

**To:** Government Operation Committee  
**Date:** 9 August 2005  
**From:** John Hamer, Assistant City Solicitor  
**Re:** First Amendment Rights

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The question has been raised whether the City is required by the First Amendment to allow a person to distribute literature in the Health & Welfare waiting area.

The First Amendment to the Constitution, applicable to state and local governments through the Fourteenth Amendment, mandates that no law shall "abridg[e] the freedom of speech." U.S. Const. amend. I. However, the First Amendment does not guarantee access to property simply because it is owned or controlled by the government. *U. S. Postal Service v. Council of Greenburgh Civic Associations*, 453 U.S. 114, 129 (1981). The government, as a private owner of property, has power to preserve the property under its control for the use to which it is lawfully dedicated. *Greer v. Spock*, 424 U.S. 828, 836 (1976). Nothing in the Constitution requires the Government freely to grant access to all who wish to exercise their right to free speech on every type of Government property without regard to the nature of the property or to the disruption that might be caused by the speaker's activities. *Jones v. North Carolina Prisoners' Labor Union*, 433 U.S. 119, 136 (1977).

To determine whether prohibiting the dissemination of literature on City-owned property is a violation of a person's First Amendment right to free speech, it is necessary to first determine the location's forum type. There are three kinds of fora- a traditional public forum, a limited forum, and a non-public forum.

Because a principal purpose of traditional public fora is the free exchange of ideas, speakers can be excluded from a public forum only when the exclusion is necessary to serve a compelling state interest and the exclusion is narrowly drawn to achieve that interest. See *Perry Educ. Ass'n. v. Perry Local Educators' Ass'n.*, 460 U.S. 37, 45 (1983). Similarly, when the Government has intentionally designated a place or means of communication as a public forum, speakers cannot be excluded without a compelling governmental interest. In public fora, governments are limited to content-neutral time, place, and manner restrictions.

However, the government does not create a public forum by inaction or by permitting limited discourse, but only by intentionally opening a nontraditional forum for public discourse. Accordingly, the U.S. Supreme Court has looked to the policy and practice of the government to ascertain whether it intended to



designate a place not traditionally open to assembly and debate as a public forum. *Cornelius v. NAACP Legal Defense and Educational Fund, Inc.* 473 U.S. 788, 802 (1985).

The Health & Welfare Department is established by the Code of the City of Bangor, Chapter 28, Article XIII, for the purpose of improving the public health and welfare through the operation of a dental clinic, immunization clinic, public health nursing program, shelter plus care program, transitional housing program, S.T.D. clinic, and W.I.C. program. Educational reading materials are provided in the Health & Welfare waiting area for the convenience of those citizens going to the Department for services. The Department and grounds are not a traditional public forum, nor has the City expressed any intention to make it available as a public forum; consequently, it is a nonpublic forum.

Access to a nonpublic forum can be restricted as long as the restrictions are "reasonable and [are] not an effort to suppress expression merely because public officials oppose the speaker's view." *Id.* at 800. The Government's decision to restrict access to a nonpublic forum need only be *reasonable*; it need not be the most reasonable or the only reasonable limitation. In contrast to a public forum, a finding of strict incompatibility between the nature of the speech or the identity of the speaker and the functioning of the nonpublic forum is not mandated. The reasonableness of the Government's restriction of access to a nonpublic forum must be assessed in the light of the purpose of the forum and all the surrounding circumstances. *Id.* at 808-9.

The avoidance of controversy is a valid ground for restricting speech in a nonpublic forum, although it would not in a public forum, because by definition a nonpublic forum is not dedicated to general debate or the free exchange of ideas. The First Amendment does not forbid a viewpoint-neutral exclusion of speakers who would disrupt a nonpublic forum and hinder its effectiveness for its intended purpose. *Id.* at 811.

Control over access to a nonpublic forum can be based on subject matter and speaker identity so long as the distinctions drawn are reasonable in light of the purpose served by the forum and are viewpoint neutral. *Perry Education Assn.*, 460 U.S. at 49. Although a speaker may be excluded from a nonpublic forum if he wishes to address a topic not encompassed within the purpose of the forum, or if he is not a member of the class of speakers for whose especial benefit the forum was created, the government violates the First Amendment when it denies access to a speaker solely to suppress the point of view he espouses on an otherwise includible subject. *Cornelius*, 473 U.S. at 806.

The City may (but is not required to) restrict the dissemination of literature for any reasonable purpose in the light of the Health & Welfare Department's function- the City's decision to restrict access to the Health & Welfare Department's waiting area (or any other nonpublic fora) need only be *reasonable*. The avoidance of controversy is a valid ground for restricting speech in a nonpublic forum- the City may exclude speakers who would disrupt the Department's operations or hinder its effectiveness in a viewpoint-neutral manner. Likewise, control over access can be based on subject matter and



speaker identity so long as the distinctions drawn are reasonable in light of the purpose served by the forum and are viewpoint neutral.

In this case, the topic about which the citizen seeks to disseminate information is not encompassed within the purpose of the forum and may therefore be excluded. After the citizen involved alleged the Health & Welfare Director had a viewpoint bias, the materials were reviewed by the City Solicitor and City Manager, both of whom determined without regard to viewpoint that the materials were not appropriate for the Health & Welfare Department.

JKH

cc: Bangor City Council  
Edward A. Barrett, City Manager